

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CORY COCA,)	3:08-cv-00326-LRH-RAM
Plaintiff,)	
vs.)	<u>ORDER</u>
STATE OF NEVADA; KEVIN BRIGGS,)	
ESQ., NEVADA BAR NO. 5588, DEPUTY)	
DISTRICT ATTORNEY FOR WHITE PINE)	
COUNTY,)	
Defendants.)	

Before the court is Plaintiff's Motion from Order of Dismissal/Motion for Reconsideration (#11¹). Plaintiff filed a Motion for Leave to Proceed *in forma pauperis* (#1) on June 12, 2008, which was granted by Order (#5) on July 15, 2008. The Order (#5) instructed plaintiff that he would have twenty (20) days to furnish service of process forms (USM-285) to the U.S. Marshal for service on defendants and that twenty (20) days after receiving the forms back from the U.S. Marshal he would need to file a notice with the court identifying which defendants had and had not been served. The order (#5) also reminded plaintiff that pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, service must be accomplished within 120 days of the date of the order.

The summons were issued pursuant to Order (#5) on July 15, 2008. Plaintiff was mailed a Notice of Intention to Dismiss pursuant to Fed. R. Civ. P. 4(m) (#8) on November 17, 2008, that no proper proof of service had been filed as to all defendants and that unless there was proof

¹Refers to court's docket number.

1 of service on the defendants filed with the court on or before November 26, 2008, the case would
2 automatically be dismissed without prejudice. No documents were filed by the plaintiff and an
3 Order of Dismissal Pursuant to Fed. R. Civ. P. 4(m) (#9) was entered on December 12, 2008, and
4 the case was closed.

5 On December 31, 2008, Form USM-285 was filed for each defendant. The returns of
6 service indicate the summons and complaints were served via U.S. mail and not by personal
7 service on the defendants as required by Fed. R. Civ. P. 4(e)(2)(A-C) and (j)(2)(A-B).

8 GOOD CAUSE APPEARING, plaintiff's Motion for Reconsideration (#11) is DENIED.

9 DATED this 7th day of May, 2009.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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